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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2012-26*

11 **ROBERTA JAMES, AKA ROBERTA**
12 **LYNN TINNEA**
13 **2016 Summit Drive**
Paso Robles, CA 93446
14 **Registered Nurse License No. 526029**

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about September 3, 1996, the Board of Registered Nursing issued Registered
22 Nurse License Number 526029 to Roberta James, aka Roberta Lynn Tinnea ("Respondent"). The
23 Registered Nurse License was in full force and effect at all times relevant to the charges brought
24 herein and will expire on December 31, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

5. Section 118, subdivision (b) of the Code provides, in pertinent part:

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

6. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:...”

7. Section 2762 of the Code provides, in pertinent part:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

• • •

1 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
2 entries in any hospital, patient, or other record pertaining to the substances
3 described in subdivision (a) of this section."

4 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
6 licensee or to render a decision imposing discipline on the license.

7 9. Section 2770.11 of the Code provides:

8 "(a) Each registered nurse who requests participation in a
9 diversion program shall agree to cooperate with the rehabilitation
10 program designed by the committee and approved by the program
11 manager. Any failure to comply with the provisions of a
12 rehabilitation program may result in termination of the registered
13 nurse's participation in a program. The name and license number of
14 a registered nurse who is terminated for any reason, other than
15 successful completion, shall be reported to the board's enforcement
16 program.

17 (b) If the program manager determines that a registered
18 nurse, who is denied admission into the program or terminated from
19 the program, presents a threat to the public or his or her own health
20 and safety, the program manager shall report the name and license
21 number, along with a copy of all diversion records for that
22 registered nurse, to the board's enforcement program. The board
23 may use any of the records it receives under this subdivision in any
24 disciplinary proceeding."

25 10. Section 4022 of the Code provides that:

26 "'Dangerous drug" or "dangerous device" means any drug or device unsafe
27 for self-use in humans or animals, and includes the following:

28 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this
device to sale by or on the order of a _____," "Rx only," or words of similar
import, the blank to be filled in with the designation of the practitioner licensed to
use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully
dispensed only on prescription or furnished pursuant to Section 4006."

DRUG DEFINITIONS

11. **Demerol** – a brand of meperidine hydrochloride, a derivative of the narcotic
substance pethidine. Demerol is a Schedule II controlled substance pursuant to Health and Safety
Code section 11055 subdivision (c)(17) and a dangerous drug pursuant to Business and
Professions Code section 4022. Demerol can produce drug dependence of morphine type and

1 therefore has the potential for being abused. Psychological dependence, physical dependence, and
2 tolerance may develop upon repeated administration.

3 **COST RECOVERY**

4 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licensee found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Unlawfully Obtained a Controlled Substance)**

10 13. Respondent is subject to disciplinary action pursuant to Code section 2761,
11 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
12 subdivision (a), in that while on duty as a registered nurse at the Galileo Pain Clinic, Respondent
13 obtained and possessed an amount of a controlled substance, other than that prescribed by a
14 licensed physician pursuant to Code section 2762(a), as more specifically set forth below:

15 a. On or about December 30, 2009, while employed as a Registered Nurse at the
16 Galileo Surgery Center in San Luis Obispo, California, Respondent stole two capsules of
17 Demerol 100 mg/ml.

18 b. On or about that same date, Respondent consumed the Demerol.

19 c. On or about that same date, Respondent falsified the Controlled Medication
20 Records for Demerol by crossing out the count of 23 on December 28, 2009, and placing a "1"
21 over the number "3" to indicate that there were only 21 capsules of Demerol when at the time of
22 the entry there were 23 capsules.

23 d. On or about April 13, 2010, after Respondent failed to enter a sober living house,
24 Respondent was terminated from the Maximus Diversion program when it was determined that
25 she posed a threat to the public.

26 **SECOND CAUSE FOR DISCIPLINE**

27 **(Unlawfully Used a Controlled Substance)**

28 14. Respondent is subject to disciplinary action pursuant to Code section 2761,

1 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
2 subdivision (b), in that Respondent unlawfully used a controlled substance, to wit, Demerol. The
3 conduct is more particularly described in paragraph 13, subparagraphs (a) through (c), inclusive,
4 above, and herein incorporated by reference.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Falsify Record Involving Controlled Substances)**

7 15. Respondent is subject to disciplinary action pursuant to Code section 2761,
8 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
9 subdivision (e), in that Respondent falsified an entry in a record pertaining to a controlled
10 substance, to wit, Demerol. The conduct is more particularly described in paragraph 13,
11 subparagraphs (a) through (c), inclusive, above, and herein incorporated by reference.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 16. Respondent is subject to disciplinary action under Code section 2761, subdivision
15 (a), in that Respondent engaged in unprofessional conduct. The conduct is more particularly
16 described in paragraph 13, subparagraphs (a) through (d), inclusive, above, and herein
17 incorporated by reference.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 526029, issued to Roberta
5 James, aka Roberta Lynn Tinnea;

6 2. Ordering Roberta James, aka Roberta Lynn Tinnea to pay the Board of Registered
7 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
8 Business and Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.
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12 DATED: July 14, 2011

Louise R. Bailey
13 LOUISE R. BAILEY, M.ED., RN
14 Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant
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